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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,417	10/21/2003	Tsutomu Taniguchi	60083 (70904)	5969

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EXAMINER

SU, BENJAMIN

ART UNIT	PAPER NUMBER
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2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/691,417

Applicant(s)

TANIGUCHI ET AL.

Examiner

Benjamin Su

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

NOTE

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10 – 13, 25 – 28 are rejected under 35 U.S.C. 101 because for claim 10, the recitation of "a data transmission program, causing a computer of an information communication device to function as the transmission data generation section and transmission control section of the data transmission device defined in claim 1" is not a computer readable medium and is not encoded with computer executable instructions, therefor it does not produce the functionality of the claimed invention hence it does not produce a tangible result, thus it is non-statutory. It is suggested applicant to change to --computer readable medium encoded with computer executable instructions--;

Claims 11, 25, 26 are rejected the same reason as above.

For claim 12, the recitation of "a computer-readable recording medium, recording the data transmission program defined in claim 10" is not a computer readable medium encoded with computer executable instructions, therefor it does not produce the functionality of the claimed invention hence it does not produce a tangible result, thus it is non-statutory. It is suggested applicant to change to --computer readable medium encoded with computer executable instructions--;

Claims 13, 27, 28 are rejected the same reason as above

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 – 4, 7, 8 – 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Maeda (US 6775705).

Maeda discloses, regarding claim 1, a data transmission device (see column 2, lines 66 – 67) in which a reception result of transmission data is confirmed on ground of a reception result notification transmitted from a receiving-end machine (see column 3, lines 26 – 36), comprising:

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a transmission data generation section which generates the transmission data to be transmitted to the receiving-end machine (see column 3, lines 9 – 13, wherein image reading processor, transmission processor correspond to a transmission data generation section) ; and

a transmission control section (see column 4, lines 29 – 34, wherein CPU corresponds to a transmission control section) which controls and causes the transmission data generation section to generate the transmission data, and transmits the generated transmission data to the receiving-end machine, when a communication error occurs, the transmission control section causing the transmission data generation section to generate retransmission data with a format different from a format of the transmission data, and retransmitting the retransmission data to the receiving-end machine (see column 9, lines 20 – 30);

claims 9 – 13 are rejected the same reason as above.

regarding claim 2, when the retransmission data is generated, the transmission control section causes the retransmission data to have a most accepted format (see column 9, lines 25 – 27, wherein an image file corresponding to the capability of the receiving-side apparatus corresponds to a most accepted format);

regarding claim 3, when the retransmission data is generated, if a capability of the receiving-end machine is suggested in the reception result notification, the

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transmission control section causes the retransmission data to have a format corresponding to the capability (see column 9, lines 25 – 27);

regarding claim 4, the transmission data includes image data (see column 3, lines 10 – 11), and the transmission control section alters a format of the image data of the transmission data, so as to cause the transmission data generation section to generate the retransmission data (see column 9, lines 25 – 27);

regarding claim 7, the transmission control section controls and causes the transmission data generation section to generate transmission data made up of e-mail data (see column 3, lines 12 – 13);

regarding claim 8, a data transmission method, by which a reception result of transmission data is confirmed on ground of a reception result notification transmitted from a receiving-end machine, comprising the steps of:

- (a) generating transmission data to be transmitted to the receiving-end machine (see column 3, lines 9 – 12);
- (b) transmitting the transmission data to the receiving-end machine (see column 3, lines 12 – 13); and
- (c) when a communication error occurs, generating retransmission data with a format different from a format of the transmission data, and retransmitting the retransmission data to the receiving-end machine (see column 9, lines 20 – 30).

6. Claims 14 – 22, 23, 25 – 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Tanimoto (US 2003/0020961).

Tanimoto discloses, regarding claim 14, a data reception device, which receives the transmission data transmitted from the data transmission device defined in claim 1 and returns a reception result notification corresponding to the reception result, comprising:

a storing section which stores information of transmission data having already been received (see paragraph 57, lines 8 – 10); and

a reception control section which determines whether newly-received transmission data is retransmission data of the transmission data having already been received or initial transmission data being different from the retransmission data, on ground of the information stored in the storing section (see paragraph 54, lines 1 – 33, wherein a confirmation message M4 with the original message ID written in the message ID column implies a determination is made if the received data is retransmission or new transmission based on the original message ID);

regarding claim 15, the reception control section causes the storing section to store a communication management table which stores (i) an identifier of the transmission data having already been received (see Figure 10, Box subject) and (ii) related information of the transmission data having already been received, in association with each other (see Figure 10, Box Origin, Box result);

regarding claim 16, when the newly-received transmission data is determined as the retransmission data (see paragraph 79, lines 3 – 4, wherein the delivery

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confirmation mail (second receiving) corresponds to retransmission data), the reception control section causes the communication management table to store an identifier of initial transmission data regarding the retransmission data, as related information of the retransmission data (see paragraph 79, lines 12 – 15);

regarding claim 17, when the newly-received transmission data is determined as the retransmission data, the reception control section updates related information of initial transmission data regarding the retransmission data, in accordance with a reception result of the retransmission data (see paragraph 79, lines 18 - 23);

regarding claim 18, a transmission control section of the data transmission device causes the initial transmission data and retransmission data regarding this initial transmission data to share a single first ID (see paragraph 53, lines 1- 7, wherein mail M1 corresponds to initial transmission data, paragraph 54, lines 12 – 20, wherein mail M3 corresponds to retransmission data, Figure 5, Box 21, Message-Id, Figure 7, Box original-Message-Id), and on ground of this first ID, the reception control section determines whether the newly-received transmission data is retransmission data or initial transmission data (see paragraph 54, lines 1 – 33, wherein a confirmation message M4 with the original message ID written in the message ID column implies a determination is made if the received data is retransmission or new transmission based on the original message ID);

regarding claim 19, the reception control section causes the first ID attached to the transmission data to be included in the reception result notification (see Figure 6, Box 22 Original-message-ID);

regarding claim 20, the , in addition to the first ID (see Figure 7, Box original-Message-Id), the transmission control section of the data transmission device causes a second ID(see Figure 7, Box Recipient@terminalB.Ifax)in the transmitted reception result notification to be included in retransmission data regarding this transmitted reception result notification, and on ground of the first ID, the reception control section determines whether newly-received transmission data is retransmission data or initial transmission data (see paragraph 54, lines 1 – 33, wherein a confirmation message M4 with the original message ID written in the message ID column implies a determination is made if the received data is retransmission or new transmission based on the original message ID);

regarding claim 21, a transmission control section of the data transmission device causes a second ID in transmitted reception result notification to be included in retransmission data regarding this transmitted reception result notification (see Figure 7, Box Receipient@terminalB.Ifax corresponds to a first ID, Box original-Message-Id corresponds to a second ID) and on ground of this second ID, the reception control section determines whether newly-received transmission data is retransmission data or initial transmission data (see paragraph 54, lines 1 – 33, wherein a confirmation message M4 with the original message ID written in the message ID column implies a determination is made if the received data is retransmission or new transmission based on the original message ID);

regarding claim 22, a data reception device which receives transmission data and returns a reception result notification corresponding to a reception result, comprising:

a storing section which stores information of transmission data having already been received (see paragraph 57, lines 8 – 10); and

a reception control section which determines whether newly-received transmission data is retransmission data of the transmission data having already been received or initial transmission data being different from the retransmission data, on ground of the information stored in the storing section (see paragraph 54, lines 1 – 33, wherein a confirmation message M4 with the original message ID written in the message ID column implies a determination is made if the received data is retransmission or new transmission based on the original message ID);

claims 23, 25 - 28 are rejected the same reason as above.

Claim Rejections - 35 USC § 103

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda.

Maeda discloses, regarding claim 5, all the subject matter of the claimed invention as recited in paragraph 6 of this office action.

Maeda fails to teach the communication error is a transmission error which is nothing to do with a capability of the receiving-end machine, the transmission control section calls off generation of the retransmission data as recited in claim 5.

However, it is obvious to not to retransmit data when the error is transmission error. Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to use the communication error is a transmission error which is nothing to do with a capability of the receiving-end machine, the transmission control section

calls off generation of the retransmission data in the method taught by Maeda in order to allow efficient use of system resources.

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda in view of Okamoto et al. (US 7000157).

Maeda discloses, regarding claim 6, Maeda discloses, regarding claim 5, all the subject matter of the claimed invention as recited in paragraph 6 of this office action.

Maeda fails to teach an operating section which displays information for a user and receives instructions from the user, wherein, the transmission control section controls and causes the operating section to display a format of the retransmission data for a user, and after receiving a retransmission instruction from the user, retransmits the retransmission data as recited in claim 6.

Okamoto et al. from the same or similar field of endeavors teach an operating section which displays information for a user and receives instructions from the user, wherein, the transmission control section controls and causes the operating section to display a format of the retransmission data for a user, and after receiving a retransmission instruction from the user, retransmits the retransmission data (see column 10, lines 35 –36, wherein display 12 corresponds to operating section, column 11, lines 29 – 54).

Thus, it would have been obvious to a person of ordinary skill in the art at the time

of the invention to use an operating section which displays information for a user and receives instructions from the user, wherein, the transmission control section controls and causes the operating section to display a format of the retransmission data for a user, and after receiving a retransmission instruction from the user, retransmits the retransmission data in the method taught by Maeda in order to allow effective data transmission by properly deal with the error (see column 12, lines 15 – 20).

12. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda in view of Tanimoto.

Maeda discloses, regarding claim 24, a data transmission device (see column 2, lines 66 – 67) in which a reception result of transmission data is confirmed on ground of a reception result notification transmitted from a receiving-end machine (see column 3, lines 26 – 36), comprising:

a transmission data generation section which generates the transmission data to be transmitted to the receiving-end machine (see column 3, lines 9 – 13, wherein image reading processor, transmission processor correspond to a transmission data generation section) ; and

a transmission control section (see column 4, lines 29 – 34, wherein CPU corresponds to a transmission control section) which controls and causes the transmission data generation section to generate the transmission data, and transmits the generated transmission data to the receiving-end machine, when a communication

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error occurs, the transmission control section causing the transmission data generation section to generate retransmission data with a format different from a format of the transmission data, and retransmitting the retransmission data to the receiving-end machine (see column 9, lines 20 – 30);

a data reception device which receives the transmission data transmitted from the data transmission device and returns a reception result notification corresponding to the reception result (see column 3, lines 26 – 35), comprising:

a storing section which stores information of transmission data having already been received (see column 3 lines, 65 – 67, wherein the reception processor corresponds to a storing section);

Maeda fails to teach a reception control section which determines whether newly-received transmission data is retransmission data of the transmission data having already been received or initial transmission data being different from the retransmission data, on ground of the information stored in the storing section.

Tanimoto from the same or similar field of endeavors teach a reception control section which determines whether newly-received transmission data is retransmission data of the transmission data having already been received or initial transmission data being different from the retransmission data, on ground of the information stored in the storing section (see paragraph 54, lines 1 – 33, wherein a confirmation message M4 with the original message ID written in the message ID column implies a determination is made if the received data is retransmission or new transmission based on the original message ID);

Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to use a reception control section which determines whether newly-received transmission data is retransmission data of the transmission data having already been received or initial transmission data being different from the retransmission data, on ground of the information stored in the storing section in the system taught by Maeda in order to allow efficient data processing by avoiding processing duplicate copy of data.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ishihara (US 6882448) and Yoshiura (US 6785017) are cited to show methods which are considered pertinent to the claimed invention.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin Su whose telephone number is 571-270-1423. The examiner can normally be reached on Monday - Friday 10 - 3 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BZS



RICKY Q. NGO
SUPERVISORY PATENT EXAMINER